

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SYLVESTER JAMES MAHONE

Plaintiff,

v.

DOUG WADDINGTON, *et al.*,

Defendants.

Case No. C04-5463RJB

ORDER

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Before the court is plaintiff's motion for appointment of counsel, (Dkt. # 117). Defendants oppose the motion. (Dkt. # 116).

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

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1 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. Moreover, it
2 appears that this case does not involve exceptional circumstances which warrant appointment of
3 counsel. There are few factual issues remaining and only one defendant. Accordingly, Plaintiff's
4 Motion to Appoint Counsel is **DENIED**.

5 The clerk is directed to send a copy of this order to plaintiff and counsel for defendant's.
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8 DATED this 13th day of October, 2005.
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10 /s/ J. Kelley Arnold
11 J. Kelley Arnold
United States Magistrate Judge
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